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Attorneys for Plaintiff

VDF FUTURECEUTICALS, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

VDF FUTURECEUTICALS, INC.,	)	CIVIL NO. 11-00288 ACK/RLP
)	
Plaintiff,	)	PLAINTIFF VDF
	)	FUTURECEUTICALS, INC.'S
vs.	)	PARTIAL MOTION TO DISMISS
	)	COUNTS II AND IV-VIII OF
SANDWICH ISLES TRADING CO.	)	DEFENDANT SANDWICH ISLES
INC., D/B/A KONA RED, INC., and	)	TRADING CO. INC., D/B/A KONA
DOES 1 THROUGH 20,	)	RED, INC.'S COUNTERCLAIM
	)	AGAINST PLAINTIFF VDF
Defendants.	)	FUTURECEUTICALS, INC., FILED
	)	JUNE 14, 2011; MEMORANDUM IN
	)	SUPPORT OF MOTION;
	)	CERTIFICATE OF WORD COUNT;
	)	DECLARATION OF ROBERT G.
	)	KLEIN; EXHIBITS "A"- "D";
	)	CERTIFICATE OF SERVICE
)	
	)	[RELATED TO DOCKET #15-1]
)	
	)	NO TRIAL DATE SET

PLAINTIFF VDF FUTURECEUTICALS, INC.'S PARTIAL MOTION TO
DISMISS COUNTS II, IV-VIII OF DEFENDANT SANDWICH ISLES
TRADING CO. INC., D/B/A KONA RED, INC.'S COUNTERCLAIM AGAINST
PLAINTIFF VDF FUTURECEUTICALS, INC., FILED JUNE 14, 2011

Plaintiff VDF Futureceuticals, Inc. ("VDF"), by and through its respective
attorneys, McCorriston Miller Mukai MacKinnon LLP, Sidley Austin LLP, and
Fish & Associates, PC, hereby respectfully moves this Court for an order
dismissing Counts IIB & C and IV-VIII of Defendant Sandwich Isles Trading Co.

Inc., d/b/a Kona Red, Inc.'s ("SITC") Counterclaim Against Plaintiff VDF Futureceuticals, Inc., filed June 14, 2011 ("Counterclaim"). This Motion should be granted on the basis that Counts IIB & C and IV-VIII of the Counterclaim fail to state a claim under Fed. R. Civ. P. 12(b)(1) & (6) or meet the heightened pleading standard under Fed. R. Civ. P. 9(b).

This Motion is brought pursuant to Rules 7, 8, 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure and is supported by the attached memorandum, the pleadings and papers on file in this action, and such additional evidence and argument as may be presented to the Court at any hearing on this Motion.

DATED: Honolulu, Hawai'i, July 19, 2011.

/s/Robert G. Klein
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JORDON J. KIMURA
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ROBERT D. FISH (*Pro hac vice*)
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